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U.S. COURTS
SOUTHERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ORIGINAL
United States Courts
Southern District of Texas
FILED
SEP 0 4 2001 LF
Michael N. Milby, Clerk

UNITED STATES OF AMERICA	§	
	§	
VS.	§	**Crim. No. H-99-455-S-02**
	§	
JORGE LUIS GARZA	§	

MOTION IN LIMINE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS:

COMES NOW JORGE LUIS GARZA, Defendant in the above-styled and numbered cause, by and through his attorney of record, J. A. SALINAS, III, and moves this Honorable Court before trial in Limine pursuant to Rules 103 and 104 of the Federal Rules of Evidence for an Order instructing the attorney for the Government, his representatives and witnesses to refrain from making any direct or indirect reference whatsoever, at trial before the jury of any other extraneous crimes or misconduct by the Defendant or other defense witnesses other than those specifically set out in the Indictment until a hearing has been held outside the presence of the jury to determine the following:

1) Whether Defendant or witness was formally charged and convicted within the past ten years of said criminal conduct and said conviction carried a maximum punishment of more than one year or said criminal offense involved dishonesty or false statements and would be admissible for impeachment purposes pursuant to Fed. R. Evid. 609.

2) If no conviction is offered for impeachment purposes, then whether said "other crimes" or misconduct fits one of the exceptions to the general rule excluding such evidence tending to prove general character pursuant to Rule 404(b), Fed. R. Evid., and then only in rebuttal.

3) Even if said "other crimes" were to constitute on of the Rule 404(b) exceptions, whether its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading, unnecessary or cumulative pursuant to Fed. R. Evid. 403.

As grounds therefore, the Defendant would show this Honorable Court the following:

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I.

The Defendant may wish to take the stand and testify in his own behalf in said cause and may call witnesses on his behalf.

II.

That should the attorney for the Government, his representative, or his witness be allowed to introduce evidence, make reference to, cross-examine the Defendant or defense witnesses with respect to, or otherwise leave the jury with an impression with respect to any other and extraneous crimes or misconduct by the Defendant or his witnesses other than those specifically set out in the Indictment presented herein would allow the attorney for the Government to get before the jury the fact that the Defendant or other defense witnesses committed other and extraneous offenses than the one for which he is on trial herein, which are remote in time and which are not relevant to the question of the Defendant's to other defense witnesses' truthfulness and veracity and would further allow the attorney for the Government to get before the jury other crimes which do not constitute an exception to the rule against such general character evidence or which is prejudicial or not needed by the Government in their case in chief or which is immaterial and unnecessary to the disposition of this case.

III.

That an ordinary objection during the course of trial, even sustained with proper instructions to the jury, will not remove such effect in view of its highly prejudicial content.

WHEREFORE, PREMISES CONSIDERED, Defendant prays this Honorable Court order and instruct the attorney for the Government, its representatives and its witnesses not to elicit or give testimony respecting, allude to, cross-examine respecting, mention, or refer to any misconduct or alleged violations of the law, or any prior convictions in the presence and hearing of the jury until a hearing has been held outside the presence of the jury and before this Honorable Court to determine the above set out relevant factors.

Respectfully submitted,

J. A. SALINAS, III
Attorney for Defendant
Federal Admission No. 16373
Texas Bar No. 00786219
12 Greenway Plaza, Suite 1100
Houston, Texas 77046
OFFICE: (713) 227-7700
PAGER: (713) 619-7700
FAX: (713)227-4510

CERTIFICATE OF SERVICE

I, J. A. SALINAS, III, hereby certify that a true and correct copy of this motion was forwarded to:

/X/ the Assistant United States Attorney handling this case

/ / the United States Probation Officer handling this case

on this the 4TH day of SEPTEMBER 2001, by:

/ /hand-delivery

/ /FAX

/ / ______________________________
Assistant United States Attorney
(713) 718-3300

/ / ______________________________
United States Probation Officer
(713) 250-5092

/X/mail

____
Assistant United States Attorney
P. O. Box 61129
Houston, Texas 77208-1129

/ / ______________________________
United States Probation Officer
P.O. Box 61207
Houston, Texas 77208-1207

____
J. A. Salinas, III
Attorney for Defendant
Federal Admission No. 16373
Texas Bar No. 00786219

CERTIFICATE OF CONFERENCE

I, J. A. Salinas, III:

/ / have

/X/ have not

discussed the foregoing motion with:

/ / Assistant United States Attorney handling the case

/ / is not opposed

/ / is opposed

/ / may or may not be opposed

/ / has no opinion

/ / United States Probation Officer handling the case

/ / is not opposed

/ / is opposed

/ / may or may not be opposed

/ / has no opinion

to the granting of this motion.

J. A. Salinas, III
Attorney for Defendant
Federal Admission No. 16373
Texas Bar No. 00786219

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
versus	§	**Criminal No. H-99-455-S-02**
	§	
JORGE LUIS GARZA	§	

ORDER

On this day came to be heard a Motion in Limine, and the Court having considered the same, it is hereby:

__________ GRANTED

__________ DENIED

SIGNED AND ENTERED this the _____ day of __________, 2001.

____
U.S. DISTRICT JUDGE PRESIDING